

Why Montana Needs HB 555
allowing survivors of domestic violence to opt in to mediation

The Problem

Montana law currently bars district courts from ordering to mediation family law cases that involve domestic violence. MCA § 40-4-301(2). This absolute bar harms survivors, the courts, and the families of Montana:

- The absolute bar re-victimizes survivors by robbing them of control over their lives—in particular the way in which they choose to resolve disputes with their abusers.
- The absolute bar delays the administration of justice. Family law cases involving domestic violence comprise a significant portion of district court cases. Barring courts from referring these cases to mediation would worsen already congested court dockets and delay their resolution.
- The absolute bar promotes the adversarial resolution of family disputes. By prohibiting the use of mediation—a non-adversarial dispute-resolution process—in family disputes, Montana sets a bad example for its families.

The Fix

HB555 amends § 40-4-301(2) by allowing domestic violence survivors to opt into mediation.

- An opt-in provision gives power and control back to survivors in these situations. It allows them to choose what *they* feel is best for themselves and their children. In many cases, survivors may decide not to go to mediation with their abusive partners. But at least they are allowed a choice.
- An opt-in provision provides relief to district courts. District courts are already overburdened with family law cases. Allowing courts to order parties to mediation would free up court dockets, enhance judicial economy, and promote the administration of justice.
- An opt-in provision promotes the non-adversarial resolution of family disputes. It allows families to choose to resolve their disputes in a peaceful, non-confrontational manner.